

AMENDED IN SENATE APRIL 21, 2003

**SENATE BILL**

**No. 256**

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**Introduced by Senator Escutia**

February 18, 2003

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An act to amend ~~Sections 70311 and 70323 of~~ *Section 76100 of, and to add Section 70404 to*, the Government Code, relating to court facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 256, as amended, Escutia. Court facilities: construction and ownership.

~~Existing law requires a county, before constructing or remodeling court facilities, to solicit comments from the court's judges. Existing law also provides for the transfer of responsibility for court facilities from a county to the state to be evidenced by one of several specified changes in title to the building containing those facilities~~ *authorizes each county to establish a courthouse construction fund to assisting the acquisition, rehabilitation, construction, and financing of courtrooms and facilities necessary or incidental to the operation of the justice system, as specified. Existing law also provides for a transition from county funding, to state funding, for superior court facilities, as specified.*

~~This bill would make technical, nonsubstantive changes to those provisions~~ *provide that no county may make any expenditure from the courthouse construction fund without the approval of the Administrative Office of the Courts. The bill would also specify that expenditures from a county courthouse construction fund are subject to other provisions governing the transition to state funding for superior court facilities.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 70311 of the Government Code is~~  
2     SECTION 1. Section 70404 is added to the Government Code,  
3     to read:  
4     70404. Notwithstanding any other provision of law, no county  
5     may make any expenditure from the local courthouse construction  
6     fund established pursuant to Section 76100 without the approval  
7     of the Administrative Office of the Courts.  
8     SEC. 2. Section 76100 of the Government Code is amended to  
9     read:  
10    76100. (a) Except as provided in Article 3 (commencing with  
11    Section 76200), for the purpose of assisting any county in the  
12    acquisition, rehabilitation, construction, and financing of  
13    courtrooms or of a courtroom building or buildings containing  
14    facilities necessary or incidental to the operation of the justice  
15    system, the board of supervisors may establish in the county  
16    treasury a Courthouse Construction Fund into which shall be  
17    deposited the amounts specified in the resolutions adopted by the  
18    board of supervisors in accordance with this chapter. The moneys  
19    of the Courthouse Construction Fund shall be payable only for the  
20    purposes set forth in subdivision (b) and at the time necessary  
21    therefor, *subject to the requirements set forth in Chapter 5.7*  
22    *(commencing with Section 70301).*  
23    (b) In conjunction with the acquisition, rehabilitation,  
24    construction, or financing of court buildings referred to in  
25    subdivision (a), the county may use the moneys of the Courthouse  
26    Construction Fund for either of the following:  
27    (1) To rehabilitate existing courtrooms or an existing  
28    courtroom building or buildings for other uses if a new courtroom  
29    or a courtroom building or buildings are acquired, constructed, or  
30    financed.  
31    (2) To acquire, rehabilitate, construct, or finance excess  
32    courtrooms or an excess courtroom building or buildings, if that  
33    excess is anticipated to be needed at a later time.  
34    (c) Any excess courtroom or excess courtroom building or  
35    buildings that are acquired, rehabilitated, constructed, or financed

pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until the excess courtrooms or excess courtroom building or buildings are needed for the operation of the justice system. Any amount received as lease or rental payments pursuant to this subdivision shall be deposited in the Courthouse Construction Fund.

(d) The fund moneys shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code.

amended to read:

~~70311. (a) Commencing July 1, 1997, and each year thereafter, no county or city and county is responsible to provide funding for “court operations,” as defined in Section 77003 and Rule 810 of the California Rules of Court, as it read on July 1, 1996.~~

~~(b) Except as provided in Section 70312, commencing as of July 1, 1996, and each year thereafter, each county or city and county shall be responsible for providing necessary and suitable facilities for judicial and court support positions created prior to July 1, 1996. In determining whether facilities are necessary and suitable, the reasonable needs of the court and the fiscal condition of the county or city and county shall be taken into consideration.~~

~~(c) If a county or city and county fails to provide necessary and suitable facilities as described in subdivision (b), the court shall give notice of a specific deficiency. If the county or city and county then fails to provide necessary and suitable facilities pursuant to this section, the court may direct the appropriate officers of the county or city and county to provide the necessary and suitable facilities. The expenses incurred, certified by the judges to be correct, are a charge against the county or city and county treasury and shall be paid out of the general fund.~~

~~(d) Prior to the construction of new court facilities or the alteration, remodeling, or relocation of existing court facilities, a county or city and county shall solicit the review and comment of the judges of that court regarding the adequacy and standard of design, and that review and comment may not be disregarded without reasonable grounds.~~

~~(e) Any reference in the statutes enacted prior to January 1, 2003, that refers to Section 68073 shall be deemed to refer to this section.~~

1     ~~SEC. 2.—Section 70323 of the Government Code is amended~~  
2     ~~to read:~~

3     ~~70323.—Subject to the provisions of Section 70325 concerning~~  
4     ~~a building subject to a bonded indebtedness, and Section 70329~~  
5     ~~concerning historic buildings, transfer of responsibility for court~~  
6     ~~facilities shall be evidenced by the following change in title to the~~  
7     ~~building containing those facilities:~~

8     ~~(a) If the building is currently owned by the county and used~~  
9     ~~solely for court functions, the building shall be transferred to the~~  
10    ~~state which shall hold title to and use of the entire building. This~~  
11    ~~subdivision may not apply to buildings that are deficient as~~  
12    ~~provided in subdivision (b) of Section 70326. Unless bonded~~  
13    ~~indebtedness, including the legal obligation to pay the~~  
14    ~~indebtedness, is transferred to the state, this subdivision does not~~  
15    ~~apply while a court facility is subject to bonded indebtedness. Title~~  
16    ~~shall transfer to the state when the bonded indebtedness is paid. For~~  
17    ~~the purposes of this subdivision, bonded indebtedness includes~~  
18    ~~only the bonded indebtedness existing at the time of transfer of~~  
19    ~~responsibility, and any refunding of the existing bonded~~  
20    ~~indebtedness issued to achieve monetary savings to the county.~~  
21    ~~Any refunding under this subdivision does not extend the original~~  
22    ~~maturity date of the bonded indebtedness and may not increase the~~  
23    ~~original principal amount of the indebtedness, except to pay costs~~  
24    ~~relating to the refunding of the bonded indebtedness.~~

25    ~~(b) If the building is currently owned by the county and used~~  
26    ~~for court and other county functions, title to the building may be~~  
27    ~~held in one of three ways, each of which shall be considered a~~  
28    ~~transfer of responsibility for the court facilities for purposes of~~  
29    ~~Section 70312:~~

30    ~~(1) The county may continue to hold title to the building.~~  
31    ~~(2) The county may transfer title to the building to the state.~~  
32    ~~(3) The county may transfer title to the building to joint~~  
33    ~~ownership between the county and the state.~~

34    ~~(c) If the building is currently owned by a third party and leased~~  
35    ~~by the county, any of the following apply:~~

36    ~~(1) If the lessor consents to transfer of the lease to the state~~  
37    ~~either without modification of the lease or on modified terms~~  
38    ~~acceptable to the county and the Judicial Council, the county shall~~  
39    ~~transfer its rights and responsibilities under the lease to the state.~~

1 ~~The court shall then occupy the building under the terms of the~~  
2 ~~lease.~~

3 ~~(2) If the lessor does not consent to the transfer of the lease to~~  
4 ~~the state or the lessor's new terms for transfer of the lease to the~~  
5 ~~state are unacceptable to either the county or the Judicial Council,~~  
6 ~~the county shall continue to provide facilities to the court under the~~  
7 ~~terms of the lease and the amount of the lease payments shall be~~  
8 ~~excluded from the county facilities payment provided by Section~~  
9 ~~70359. Upon expiration of the lease, the amount of the lease~~  
10 ~~payments shall then be included in the county facilities payment~~  
11 ~~in the same manner provided by Section 70359, as if the lease were~~  
12 ~~transferred to the state.~~

13 ~~(3) If the lessor does not consent to the transfer of the lease to~~  
14 ~~the state or the lessor's new terms for transfer of the lease to the~~  
15 ~~state are unacceptable to either the county or the Judicial Council,~~  
16 ~~the county and the Judicial Council may agree that the provisions~~  
17 ~~of paragraph (2) of subdivision (c) do not apply, the court shall find~~  
18 ~~alternative facilities, and the amount of the lease payments due~~  
19 ~~under the lease shall be included in the county facilities payment~~  
20 ~~as provided by Section 70359. The agreement under this~~  
21 ~~subdivision may include an agreement for a different lease~~  
22 ~~payment amount to be included in the county facilities payment.~~  
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